

Remarks

The above amendments and following remarks are submitted in order to be fully responsive to the Office Action mailed July 24, 2002. Claims 1-16 are pending. With this response, claims 1, 8, 9, 13, 14, and 15 are amended. Claims 2, 3, and 5 are canceled. Reconsideration and further examination of the application are respectfully requested.

The time period for response was set to expire on October 24, 2002. Accordingly, it is respectfully submitted that this response is timely filed. However, if any extension period is required in order for this paper to be timely filed, then Applicant hereby requests an extension for such additional time period and authorizes the Commissioner to charge any fees therefore to the Kagan Binder deposit account No. 50-1775.

No other fees are believed to be required in connection with the filing of this response. Should any fee be required, the Commissioner is authorized to charge Kagan Binder Deposit Account No. 50-1775 and thereafter notify us of the same.

Claim rejections under 35 U.S.C. §112

The Examiner has rejected claims 1-16 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 as amended no longer recites "linguistically", making that objection moot.

The cancellation of claim 3 makes the objection to "such as" moot.

It is respectfully submitted that the rejection based upon the terms tear drop-shaped, sun-shaped, fire-shaped, and ghost-shaped in claims 6, 7, 8, and 9 is improper. The claimed toy is intended to be used by people of all ages, including young children. See page 5, line 10 and page 7, lines 7-18. If young children have no difficulty recognizing and differentiating among playpieces having the claimed shapes, it is not seen how the claimed shapes can possibly be indefinite. Withdrawal of the rejection is respectfully requested.

It is respectfully submitted that the amendments to claims 8 and 9 corrects the antecedent basis rejections made with respect to those claims.

Claim rejections under 35 USC 102/103 over Shaver, Frampton, Fredericks, and Aduvala

The Examiner has rejected claims 1-4 and 12-16 under 35 U.S.C. §102(b) as being anticipated by Shaver. The Examiner has rejected claims 1, 4 and 6-9 under 35 U.S.C. §102(b) as being anticipated by Frampton. The Examiner has rejected claims 1 and 10 under 35 U.S.C. §102(b) as being anticipated by Fredericks. The Examiner has rejected claims 1 and 3 under 35 U.S.C. §102(b) as being anticipated by Aduvala. These rejections are traversed in that neither reference discloses playpieces that include the claimed combination of three features (unique color, unique shape, and unique text and/or graphics information) that help to facilitate emotional exploration via multiple sensory pathways.

The claims as amended now recite playpieces that incorporate at least a trio of three unique structural features, respectively. These are unique color, unique shape, and unique text and/or graphics information. By associating each emotion with at least a trio of unique features, the claimed toy helps the user, e.g., a child, better differentiate among various emotions. The combination makes the toy more universally useable by a wider range of people as it accommodates the fact that different people input and express information via different linguistic, kinesthetic, and/or visual means. Emotional involvement using the toy is greatly enhanced by the fact that the abstract representation of emotion is multidimensional. Enrichment comes, at least in part, because the emotional involvement is not trivialized by having too few differences among the different emotions. The multiple features uniquely associated with each emotion allows a user to personalize the emotion, name the emotion, and become familiar with it. Because multiple features are associated with the emotion, thinking is necessarily involved when emotion is explored with the toy. The result advantageously is purposeful interaction, not merely reactive interaction.

Shaver, Frampton, Fredericks, and Aduvala all fail to represent emotion in the claimed, multidimensional manner. In all of these patents, emotion, if represented at all, is represented much more simply. None provides each emotion with at least a unique trio of characteristics differentiating one emotion from the other. Consequently, the interaction between a user, e.g., a child, and any of the devices described in any of Shaver, Frampton, Fredericks, and Aduvala would be less rich, less thought-provoking.

The amendments to the independent claims, as a practical matter, incorporate an aspect of both original claims 2 and 3 into the independent claims. This avoids the rejections over Fredericks and Aduvala.

The Shaver patent does not disclose such an interactive toy that teaches the identification of emotion through unique shape, color, and graphics/text features. Rather, the Shaver patent teaches a diagnostic tool, in the form of a figure, preferably a teddy bear, having disposed therein a receptacle within which objects that are indicative of the nature or intensity of emotional feelings may be collected. See, Shaver, abstract, lines 3-7. The figure is designed to assist a teacher or counselor in getting a user to communicate sensitive information, such as information about abuse, that may be otherwise difficult for the user to convey. Shaver explicitly teaches that no conclusions about the objects that are placed in the receptacle are to be reached without questioning the user as to their meaning:

It is important for the practitioner to ask the child what the disks mean to him or her rather than make assumptions. For instance, for one child the color red may represent anger, but for another child it may simply be a favorite color. One child may pick a yellow disk because it represents sunshine and warmth while another child may have fear associated with yellow because of involvement of a fire. The child should always be asked to describe what the colors, faces and numbers or intensity dots mean. See, Shaver, column 5, lines 28-37.

Put simply, the toy of Shaver is not intended, or even desired, to be used to teach a variety of emotions to the user, but rather, is intended to be used by a user to communicate a state of being or mind that they may be experiencing to an observer.

In contrast, the current inventive toy may also be used for diagnostic purposes, the toy of the present invention uses shapes, colors, words, symbols, graphics and the like commonly associated with, or symbolic of, a variety of emotions, preferably in combination with linguistic indicia of the emotion, is used primarily to teach the user to identify emotions that they may later experience. A user of the present interactive toy, could remove a playpiece from the desirably heartshaped container thereby kinesthetically learning that emotions can come from the heart, view the playpiece to identify and learn common indicia associated with that emotion, and read or have read to them linguistic information teaching them the emotion. While the indicia used in connection with the present inventive toy is intended to identify the emotion, the indicia employed by Shaver is taught not to do so, and in fact, Shaver teaches against the instruction of emotion.

In summary, Shaver does not teach an interactive toy that symbolically represents emotions through color, shape, and text/graphics. There are no linguistic means taught or suggested in connection with the toy of Shaver. Further, there is no teaching or suggestion that the Shaver toy may further be used in play to represent emotions kinesthetically, i.e., there is nothing about inserting objects into a slot in a teddy bears belly that is representative of an emotion, nor is any such activity suggested.

As a result, the Shaver patent does not teach or suggest each and every element of the claims. Thus, it cannot be said that the Shaver patent anticipates these claims, and withdrawal of this rejection is appropriate and is further respectfully requested.

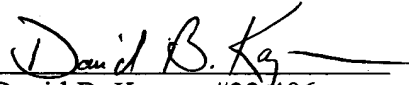
Inasmuch as Shaver does not recite each and every element of independent claim 1, nor are the lacking elements suggested, this disclosure cannot be said, taken alone, to render this claim or the claims dependent therefrom obvious. Withdrawal of the rejection of claims 5 and 11 as obvious over this reference is thus appropriate and is respectfully requested.

Frampton discloses a toy that teaches shape association with an incorporated timing feature. That is, a plurality of 'keys' having numerous shapes are provided along with blocks having receptacles provided in a surface thereof. Each key will fit within one block whose receptacle corresponds to the shape of the key. There is no key taught or suggested that represents emotions through a combination of shape, color, and text/graphics, nor does Frampton teach or suggest that the game be desirably played in a fashion that represents emotions kinesthetically. Inasmuch as claim 1 now recites that each of the playpieces includes a unique color scheme, shape, and graphics and/or text., and Frampton does not teach or suggest this enriched, emotional combination of features, Frampton cannot be said to anticipate claim 1 or the claims dependent therefrom. As a result, withdrawal of this rejection is appropriate and is respectfully requested.

CONCLUSION

In view of the above remarks, it is respectfully submitted that the claims and the present application are now in condition for allowance. Approval of the application and allowance of the claims is earnestly solicited. In the event that a phone conference between the examiner and the Applicant's undersigned attorney would help resolve any remaining issues in the application, the Examiner is invited to contact said attorney at (651) 275-9804.

Respectfully Submitted,

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Dated: October 24, 2002

DBK5656



EXHIBIT

Marked up copy of claims showing claim amendments

1. (Twice Amended) ~~An interactive toy that symbolically represents emotions through visual and linguistic means and that may further be used in play to represent emotions kinesthetically~~ for exploring an emotional experience, comprising:
 - (a) a plurality of playpieces, each playpiece being generally symbolic of a particular emotion ~~both visually and linguistically~~, and each playpiece comprising a unique color, a unique shape, and unique visually discernible information selected from the group consisting of at least one of textual and graphical information; and
 - (b) a container comprising a storage chamber into which the playpieces may be independently stored or withdrawn during the course of play thereby providing the opportunity for emotions to be kinesthetically represented.
2. ~~The interactive toy of claim 1, wherein each playpiece is generally visually symbolic of a particular emotion by virtue of the inclusion of unique visual indicia generally symbolic of the emotion, such as color scheme, shape, graphic information or combinations thereof.~~
3. ~~The interactive toy of claim 1, wherein each playpiece is generally linguistically symbolic of a particular emotion by virtue of the inclusion of unique linguistic indicia, such as text information.~~
4. The interactive toy of claim 1, wherein the playpieces comprise a first playpiece generally symbolic of love, a second playpiece generally symbolic of sadness, a third playpiece generally symbolic of happiness, a fourth playpiece generally symbolic of anger, and a fifth playpiece generally symbolic of fear.
5. ~~The interactive toy of claim 4, wherein the second, third, fourth and fifth playpieces each comprise a respective unique color scheme and wherein the first~~

~~playpiece comprises a color scheme that includes a combination of the color schemes of the second, third, fourth, and fifth playpieces.~~

6. The interactive toy of claim 4, wherein the playpiece generally symbolic of sadness is tear drop-shaped.

7. The interactive toy of claim 4, wherein the playpiece generally symbolic of happiness is sun-shaped.

8. (Once amended) The interactive toy of claim ~~4~~, wherein the playpiece generally symbolic of anger is fire-shaped.

9. (Once amended) The interactive toy of claim ~~4~~, wherein the playpiece generally symbolic of fear is ghost-shaped.

10. The interactive toy of claim 1, wherein one or more of the playpieces each respectively comprises one or more panels enclosing a stuffing material.

11. The interactive toy of claim 1, wherein the container is heart-shaped.

12. The interactive toy of claim 1, wherein the container is a plush, pillow bag.

13. (Twice Amended) A method of exploring emotional experience, comprising the steps of:

- (a) providing a toy comprising a plurality of playpieces, each playpiece being generally symbolic of a particular emotion and each playpiece comprising a unique color, a unique shape, and unique visually discernible information selected from the group consisting of at least one of textual and graphical information~~both visually and linguistically~~, and a container comprising a storage chamber into which the playpieces may be independently stored or withdrawn during the course of play; and

- (b) interacting with the toy ~~thereby providing the opportunity for emotions to be kinesthetically represented~~ to explore an emotional experience.

14. (Once Amended) The method of claim ~~11~~13, ~~comprising wherein interacting with the toy comprises~~ visually, kinesthetically, and linguistically ~~interacting with the toy~~ exploring an emotional experience.

15. (Once Amended) The method of claim ~~11~~13, wherein step (b) comprises withdrawing a playpiece from the container.

16. The method of claim 13, further comprising naming the emotion corresponding to the playpiece.